REMARKS

Claim Status

Claims 1 and 3-9, 11-27, and 29-33 are currently pending. Claims 2, 10, and 13-28 are canceled without disclaimer of any of the subject matter recited therein. Claims 30-33 are new.

Claims 1, 3-4, 8-9, 11-12, and 29 were rejected as unpatentable under 35 U.S.C. § 102 or 35 U.S.C. § 103.

Clams 5-7 stand objected to based upon their dependency, but are otherwise deemed allowable.

35 USC 102

Claim 9 and its dependencies (nos. 11-12, and 29) were rejected as being allegedly anticipated by U.S. patent 4,817,613 to Jaraczewski. The undersigned submits that these claims are patentable over the '613 patent at least because claim 9 recites "a flushing line positioned around the first catheter, the flushing line in fluid communication with the plurality of flushing orifices."

The '613 is entitled "Guiding Catheter" and regards "a torque transmitting guiding catheter adapted for insertion into vascular vessels with a body." See '613 Abstract. The sole mention of side holes in the '613 patent is in its claim 13, which states that the side holes are "for facilitating the flow of blood through the catheter." There is no mention of a flushing line or one that is positioned around the catheter as in claim 9. Moreover, there is no reason to even add such a line to the catheter in the '613 patent because the '613 explains that the side holes are for allowing blood in a lumen in which the catheter is placed to flow through the lumen of the catheter. There is no reason to have this blood flow though a different flushing line when the lumen of the catheter is readily available. Such a modification would occupy additional space and would be superfluous and redundant. Consequently, as the '613 patent fails to disclose the quoted claim language, claim nine and its dependent claims are patentable over the '613 patent.

35 USC 103

Claim 1 and its dependencies stand rejected as being allegedly unpatentable over U.S. patent 6,524,303 to Garibaldi in light of U.S. patent 5,718,678 to Fleming. The undersigned requests reconsideration of this rejection as there is no motivation to combine these references to

have "a second catheter located within the first catheter, the first catheter sized to allow the second catheter to move within it, the second catheter having a steerable distal portion," as in claim 1.

The '303 patent, which is the primary reference, is entitled "Variable Stiffness Magnetic Catheter." It regards a steerable magnetic catheter having regions of different flexibility along its length and a magnetic body (32) at its distal tip. By combining the magnetic body with the flexible tip in this fashion, the distal end of the catheter may be manipulated and steered during a medical procedure with a magnetic field being controlled outside of the body. See Abstract. The '303 patent states that an advantage of this configuration is that the need for a guidewire is eliminated. The distal tip of the catheter in the '303 patent is further described as being extremely flexible and kink resistant in order to allow it to fit within vessels having a diameter of less than 5 mm. See '303 patent at col. 2:49-51. The '303 further states that the outside diameter of the distal region of the catheter is preferably 0.023 inches (i.e. approx. 0.6 mm). See '303 patent col. 3:11-12. In short, the '303 patent regards a steerable catheter that uses magnetism rather than a guide wire to steer its narrow distal end within the body.

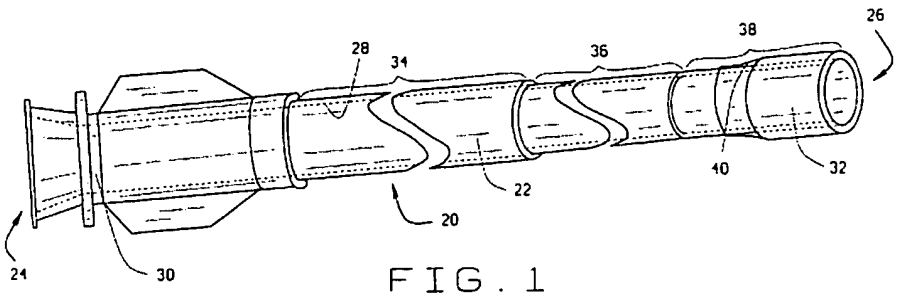

FIG. 1

The '678 patent, which is entitled "Multi-Lumen Coaxial Catheter and Method for Making Same" regards a catheter having three catheter tubes. These tubes are molded together, see e.g. col. 10:36-41, in a coaxial fashion and are accessible via extension tubes (78) at its proximal end..

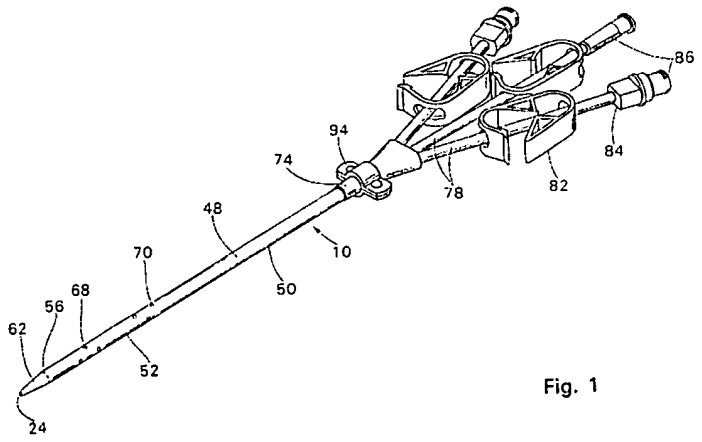

Fig. 1

The Office action acknowledges that the '303 patent does not disclose a second catheter within its steerable catheter and then seeks to resolve this deficiency by combining the '303 patent with the '678 patent. This combination is improper for several reasons. For one, the catheter in the '303 patent already has a steerable distal end. There is no reason to add a steerable catheter within it as suggested by the Office action. Doing so is redundant. For another, a principal point of the design of the '303 is to eliminate the need for a guide wire within it (see abstract), thus, the suggested modification, to add steerable member within the catheter of the '303 patent, is contrary to the direct teaching of the '303 patent. Still further, the small scale of the catheter in the '303 patent would not accommodate the coaxial catheter of the '678 patent. The outside diameter of the catheter of the '678 patent is larger than 2.362 mm, see '678 patent at col. 7:23-32, while the inside diameter of the catheter in the '303 patent is about 0.6 mm, see col. 3:11-12.

Thus, the '303 patent and the '678 patent may not be properly combined as such a combination is (a) redundant; (b) contrary to the teachings and principal purpose of the primary reference; and (c) physically impossible given the disclosures of both patents.

As to claim 8, the undersigned requests that if this claim is rejected again, that a detailed basis for this rejection be set out in the Office action. The most current action provides no explanation as to how the cited references are being read to reject the claim.

Conclusion

It is believed that the above-identified application is in condition for allowance, and notice to that effect is respectfully requested.

Should the Examiner have any questions, the Examiner is encouraged to contact the undersigned at the telephone number indicated below.

The Commissioner is authorized to charge any fees or credit any overpayments which may be incurred in connection with this paper under 37 C.F.R. §§ 1.16 or 1.17 to Deposit Account No. 11-0600.

Respectfully submitted,

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